E'LED IN THE U.S. U.STRIGT COURT EASTERN ENDTHROT OF WASHINGTON

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3		HAMED BEARSEN, CLERK
4		Caronia, WASHINGTON
5	UNITED STATES DISTRIC	T COURT
6	FOR THE EASTERN DISTRICT OF	F WASHINGTON
7	YAKIMA DIVISIO	N
8		
9	UNITED STATES OF AMERICA,)
10)
11	Plaintiff,) 01/0/0070170
12		ý CV-04-3072-LRS
13	v.) CIVIL NO.
14)
15	YAKIMA COUNTY; CORKY MATTINGLY,) CONSENT DECREE
16	Yakima County Auditor;)
17	JIM LEWIS, RONALD GAMACHE,)
18	and JESSE PALACIOS,)
19	County Commissioners.)
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21	Defendants.)
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I. Background

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A. The United States of America initiated this action pursuant to Section 203 of the Voting Rights Act of 1965 ("Section 203"), as amended, 42 U.S.C. § 1973aa-1a, 1973aa-2, and 28 U.S.C. § 2201, alleging that election practices and procedures used by Yakima County, Washington, for Spanish-speaking citizens violate Section 203. The claim under Section 203 must be heard and determined by a court of three judges pursuant to 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284.

B. Yakima County's coverage under Section 203 is based on a

determination by the Director of the Census that more than five (5) percent of the

citizens of voting age in the County are members of a single language minority

group (Spanish heritage) who do not speak or understand English well enough to

participate effectively in the English-language election process (hereinafter

referred to as Spanish-speaking citizens or voters), and that these persons have an

illiteracy rate higher than the national illiteracy rate, 42 U.S.C. 1973aa-1(a).

C. In 1976 Yakima County was designated by the Director of the Census as a jurisdiction subject to the requirements of Section 203 for persons of Spanish heritage. 41 Fed. Reg. 29,998 (July 20, 1976). In 2002, Yakima County was again so designated by the Director of the Census. 67 Fed. Red. 48,871 (July 26, 2002).

- D. The United States alleges in its complaint that Yakima County is not fully compliant with the requirements of Section 203 for Spanish-speaking citizens residing in Yakima County with respect to the need to:
 - 1. Provide complete and accurate Spanish translations of all materials and information produced in English and provided to the public, including but not limited to, ballots, information about voter registration, candidate qualification procedures, voting by mail or absentee, voting at the polls, and voting-related information on the

Yakima County website;

- 2. Provide effective Spanish language assistance at County offices and polling places regarding election-related issues;
- 3. Publish Spanish language materials in a timely fashion;
- 4. Make Spanish language materials, information, and assistance available to Spanish-speaking voters; and
- 5. Provide Spanish materials to those voters who need them or take steps to notify such Spanish-speaking voters that Spanish materials are available.
- E. The named defendant parties (hereinafter "Yakima County") do not admit to the allegations of the complaint. Yakima County, however, does share with the United States a mutual interest to implement procedures that will protect the rights of Spanish-speaking voters to participate fully in the electoral process in compliance with the Voting Rights Act and the United States Constitution, and therefore, Yakima County agrees to implement fully the terms of this consent decree for enforcement of all applicable laws. Accordingly, the United States and Yakima County consent to the entry of this Order, as indicated by the signatures of counsel at the end of this document. The parties waive a hearing and entry of findings of fact and conclusions of law on all issues involved in this matter.

Accordingly	, it is hereby	ORDERED,	ADJUDGED	AND	DECREED
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2 that:

Yakima County, its agents, employees, contractors, successors and all other persons representing the interests of Yakima County are hereby **ENJOINED** from violating Section 203 by failing to provide in Spanish any "registration or voting notices, forms, instructions, assistance or other materials or information" that they provide in English. 42 U.S.C. § 1973aa-1a(c). More specifically, Yakima County shall be required to do the following:

II. <u>Translation of election-related materials</u>

- A. All "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots," 42 U.S.C. 1973aa-1a(c), provided by Yakima County shall also be provided by Yakima County in the Spanish language. Yakima County shall ensure that both English and Spanish language election information, materials, and announcements provided by Yakima County are made equally available.
- B. Yakima County shall translate into Spanish all election-related documents and information it provides in English. Such translation shall begin as soon as the English text is known and shall be completed so as to allow distribution along with the English text. To ensure the quality of translations, the

- 1 County shall employ trained translators who are familiar with Spanish language
- election terminology to produce clear and accurate written translations. The
- 3 County shall develop and maintain a glossary of Spanish election terminology
- 4 using Spanish terms understandable to local Latino citizens in concert with
- 5 bilingual members of local Latino communities.
- 6 C. All official ballots, including absentee ballots, shall be printed
- bilingually in both English and Spanish. Any new voting system adopted by the
- 8 County shall offer bilingual ballots or a readily apparent option of a Spanish
- ballot, and any audible version of the ballot on such machines shall be available in
- English and Spanish.

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III. <u>Dissemination of Spanish language information</u>

- A. All voter registration and election notices, forms, instructions, and other materials available to voters in English shall also be printed in Spanish and shall be displayed or available in the County Auditor's Office, each polling place, and any other location where the County posts election-related materials on the same basis as English language materials and information.
- B. Yakima County shall ensure that all Spanish- and English-language election-related information, materials, and announcements are made equally available. Spanish-language information shall be distributed through newspapers,

- radio and other media that exclusively or regularly publish or broadcast
- 2 information in Spanish. Dissemination of these announcements need not be
- identical in all respects to dissemination of English-language announcements, but
- shall be in the form, frequency, and media best calculated to achieve notice and
- 5 understanding equal to that provided to the English-speaking population.
- 6 C. Yakima County shall adopt a checklist identifying each Spanish-
- language and bilingual material that the County makes available to the public at
- 8 each polling place. The checklist shall include, for each item, an attestation that
- 9 the poll workers at the polling place posted or made available to voters such
- Spanish-language or bilingual document, or solicit a detailed written explanation
- of why individual items were not posted or available. The election inspector for
- each polling place must complete and sign this document before receiving
- payment for work in the election, subject to applicable state and federal law.
- 14 Yakima County shall maintain a record of each failure to complete and sign the
- 15 checklist.

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IV. Spanish Language Assistance

- A. Trained bilingual (English/Spanish) election personnel shall be available
- to answer voting related questions by telephone without cost during normal
- business hours and while the polls are open on election days.

B. Yakima County shall recruit, hire, and assign sufficient bilingual (Spanish/English) poll workers, who are able to understand, speak, read, and write Spanish fluently, to provide assistance to Spanish-speaking voters at the polls on election days. To assist in the recruitment of bilingual poll workers, the County shall survey its employees to identify personnel who speak Spanish and, to the extent such employees can be made available to provide assistance, allow and encourage such employees to serve at the polls on election day or be available "on call" to address questions or problems that may arise.

C. As part of its obligation to ensure that entities on whose behalf the County conducts elections are fully compliant with Section 203 in their elections, the County shall request that each entity for which it conducts elections perform similar surveys of its employees and shall request from such entities, and maintain copies of, all election-related materials and information created or disseminated by such entities for each election. In addition, the County shall request that each school district or other educational entity for which the County conducts elections implement a program that allows and encourages selected bilingual students (as allowed by state law and as part of an educational program devised by such district) to serve as poll workers on election day for all County elections, including election days that fall on school days, with such students receiving

1	academic credit appropriate to their service as well as all pay and benefits of poll
2	officials

- D. The County shall invite eligible members of the Advisory Group, discussed below, to serve as paid poll workers and to encourage other bilingual voters to do so. The County shall publicize to the Spanish speaking community the option of absentee voting to the same extent it does so for English-speaking voters.
- E. Bilingual assistance shall be provided in polling places in accordance with the following:
 - (1) In polling places where the number of Spanish surnamed registered voters is 150 to 299, there shall be at least one poll worker bilingual in Spanish and English.
 - (2) In polling places where the number of Spanish surnamed registered voters is 300 to 599, there shall be at least two poll workers bilingual in Spanish and English.
 - (3) In polling places where the number of Spanish surnamed registered voters is 600 to 999, there shall be at least three poll workers bilingual in Spanish and English.
 - (4) In polling places where the number of Spanish surnamed

registered voters is over 1,000, there shall be at least four poll workers bilingual in Spanish and English.

- (5) When assigning poll workers bilingual in Spanish and English to election boards at various polling places, assignment should be done in a manner that there will be at least one bilingual poll worker on each election board, whenever feasible.
- (6) The parties may agree to adjust the standards in this section in light of information that the actual language need in a particular polling place is lesser or greater than that set forth above.
- F. Yakima County shall make available and train in Spanish language election terminology sufficient bilingual personnel who shall be on call throughout election day to provide language assistance to Spanish-speaking voters in person at any polling place in which additional language assistance is needed or where no bilingual poll worker is available. Such on-call staff shall be stationed in appropriate areas of the County, including in the City of Yakima and locations in the lower Yakima Valley, so as to minimize any delay for voters while the staff member travels to the polling place.
- G. At each training session prior to an election, in addition to any required state or County training, the County shall train all poll workers and other election

personnel present at the polls on the requirements of Section 203, including making Spanish language assistance and materials available to voters and being respectful and courteous to all voters regardless of race, color, language abilities, or national origin. In addition to the general training for poll workers and interpreters, the County shall train all bilingual poll workers on Spanish language election terminology and how to interpret into Spanish the ballot(s), voting instructions, and other election-related issues. The County shall maintain a record of which poll workers attend training sessions, including the time, location, and training personnel involved.

- H. Yakima County shall post signs prominently in both English and Spanish at sites where voting occurs stating that Spanish language assistance is available. Bilingual poll workers shall be identified as such by badges. At sites without bilingual poll workers, signs in both English and Spanish shall be posted that explain how voters can obtain Spanish language assistance.
- I. Upon receipt of complaints by voters, whether oral or written, Yakima County shall investigate expeditiously any allegations of poll worker hostility toward Spanish-speaking and/or Latino voters in any election. Yakima County shall report the results of each investigation to the United States. Where there is credible evidence that a poll worker(s) have engaged in inappropriate treatment of

Spanish-speaking and/or Latino voters, Yakima County shall remove the poll worker(s).

V. <u>Program Coordinator</u>

- A. The County shall employ, on a full time basis, an individual to coordinate the County's Bilingual Election Program ("Program Coordinator") for all elections within the County. The County shall provide that individual with transportation and other support sufficient to meet the goals of the Program. The Program Coordinator shall be able to understand, speak, write, and read fluently both Spanish and English.
- B. The Program Coordinator shall work under the supervision of the Yakima County Auditor to implement a bilingual election program. The Program Coordinator's responsibilities shall include coordination of translation of ballots and other election information; development of an election glossary to ensure uniform use of election terminology in Spanish; development and oversight of publicity, including selection of appropriate Spanish-language media for notices and announcements in Spanish and English-language print media that specifically serves Latino communities for announcements in English; recruitment of bilingual poll workers and interpreters, including assessment of their Spanish language proficiency; devising specific steps to provide election information to the Spanish-

- speaking community; sending staff to make presentations and answer questions at
- events and meetings sponsored by Latino community organizations; and managing
- other aspects of the Program.
- 4 VI. <u>Advisory Group</u>:

interested persons.

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- A. The Program Coordinator shall establish and chair an Advisory Group to assist and inform the Bilingual Election Program and shall invite participation from all organizations listed in Attachment A, as well as other individuals and organizations that work with or serve the Spanish-speaking and Latino communities in Yakima County. Such Advisory Group shall be open to all
 - B. The Advisory Group shall meet at least once a month in 2004, at least every two months during 2005, and as the group determines is necessary in 2006. In these meetings, Yakima County shall solicit information on how most effectively to provide election materials, information, and assistance to Spanish-speaking voters and how to publicize the County's Spanish language election program. The Program Coordinator shall provide notice of all planned meetings

to each member, including the date, time, location, and meeting agenda at least 14

days in advance, although members of the Advisory Group may agree to waive or

C. Within five days after each meeting, the Program Coordinator shall provide a written summary of the discussion and any decisions reached at the meeting to all members and to the County Auditor. If the County Auditor decides not to implement an Advisory Group suggestion or a consensus cannot be reached respecting such suggestion, the Auditor shall provide to the group through the Program Coordinator and maintain on file a written statement of the reasons for rejecting such suggestion.

D. The County shall transmit to all interested members of the advisory group copies, in English and Spanish, of all election information, announcements, and notices that are provided or made available to the electorate and general public and request that they share such information with their members.

VII. Evaluation of the plan

The parties recognize that regular and ongoing reassessment may be necessary in order to provide the most effective and efficient Spanish language program. Yakima County shall evaluate the Bilingual Election Program after each election cycle (e.g., following 2004 elections) to determine which aspects of the Bilingual Election Program are functioning well; whether any aspects need improvement; and how to make needed improvements. The program may be adjusted at any time upon written agreement of the parties.

VIII. Federal Examiners and Observers:

- A. To monitor compliance with this Decree, the appointment of federal examiners is authorized for Yakima County pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. 1973a (a), through December 31, 2006.
 - B. Yakima County acknowledges the authority of federal observers to observe all aspects of voting conducted in the polls on election day, including the observers' authority to view County personnel providing assistance to voters during voting, except where the voter objects.

IX. Retention of Documents and Reporting Requirements

- A. During the duration of this decree, the County shall make and maintain written records of all actions taken pursuant to this Consent Decree. Such documents, lists, and records shall be made available, upon reasonable notice, to the United States for inspection and copying.
- B. During the duration of this decree, at least ten (10) days before each County-administered election held in the County, Yakima County shall provide to counsel for the United States, the name, address, and precinct designation of each polling place; the name and title of each poll worker appointed and assigned to serve at each polling place; a designation of whether each poll worker is bilingual in English and Spanish; and an electronic copy of the final, official voter

- registration list to be used in each such election. Within thirty (30) days after each
- election, Yakima County shall provide to counsel for the United States any
- 3 updated report regarding changes in these items as well as information about all
- 4 complaints the County received at the election regarding language or assistance
- issues and the voters' registration list used in the election.

X. <u>Duty to Defend Consent Decree</u>

7 The parties to this Consent Decree shall employ their best efforts to defend

this Consent Decree against any legal challenge.

XI. <u>Jurisdiction</u>

The Court shall retain jurisdiction of this case to enter further relief or such

other orders as may be necessary for the effectuation of the terms of this

agreement and to ensure compliance with Section 203.

XII. <u>Termination of Consent Decree</u>

14 This agreement is final and binding between the parties and their successors

in office regarding the claims raised in this action. This agreement shall remain in

effect through December 31, 2006, and the United States may, within 90 days of

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that date, move to extend the decree for good cause shown, in the event of a 1 violation of any provision contained herein by the County. 2 AGREED AND CONSENTED TO: 3 For Plaintiff: For Defendants: 4 UNITED STATES OF AMERICA 5 6 James A. McDevitt, United States Attorney Terry Apstin, Esq. 8 County/Counsel, Yakima County William A. Beatty, Asst. United States 9 County Court House, Room 329 Attorney and Chief, Civil Division 10 128 North Second Street Eastern District of Washington Yakima, Washington 98901 11 920 West Riverside Avenue # 300 12 Spokane, WA 99201-1494 13 14 15 16 17 R. Alexander Acosta 18 **Assistant Attorney General** 19 Civil Rights Division 20 21 22 Joseph D. Rich, Chief 23 John Tanner, Special Litigation Counsel 24 Bruce I. Gear 25 Ana Henderson, Attorneys 26 Voting Section, NWB 27 U.S. Department of Justice 28

Civil Rights Division

950 Pennsylvania Ave., N.W.

Washington, D.C. 20530

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JUDGMENT AND ORDER

2	This three-judge Court, having been properly empaneled under 28 U.S.C. §
3	2284 to consider the United States' claim under Section 203 of the Voting Rights
4	Act of 1965 (as amended), 42 U.S.C. § 1973aa-1a (1992), and having determined
5	that it has jurisdiction over this claim, has considered the terms of the Consent
6	Decree, hereby enters the relief set forth above and incorporates those terms
7	herein.
8	ENTERED and ORDERED this 3 day of September, 2004.
9 10 11 12 13	UNITED STATES CIRCUIT JUDGE
14 15 16 17	UNITED STATES DISTRICT JUDGE
18 19	
20 21	Jonny Juko
22	UNITED STATES DISTRICT JUDGE

R. ALEXANDER ACOSTA Assistant Attorney General Civil Rights Division JOSEPH D. RICH Chief JOHN TANNER BRUCE I. GEAR ANA HENDERSON Attorneys **Voting Section** Civil Rights Division United States Department of Justice 950 Pennsylvania Ave, N.W. - NWB Ste. 7201 Washington, D.C. 20530 202-353-0419 JAMES A. McDEVITT United States Attorney WILLIAM A. BEATTY Assistant United States Attorney Chief, Civil Division Eastern District of Washington 920 West Riverside Avenue # 300 Spokane, WA 99201-1494

ATTACHMENT A: Community Contacts/Advisory Committee Members

Sunnyside School District Directo			837-0906	314 Peach Av, Sunnyside 98944	Garza, Lorenzo Jr.
KDNA Radio, Manager			877-6847	P O Box 800, Granger 98932	Garcia, Ricardo
Mt. Adams School District Director			848-2370	P O Box 99, Harrah 98933	Garcia, Larry J.
Harrah Town Council			848-2370	P O Box 99, Harrah 98933	Garcia, Avelina A.
				107 E Riverside Av, Sunnyside 98944	Gamboa, Lupe
Hispanic Chamber of Commerce		hfranco@nwinfo.net	307-1183	815 N 28th Av, Yakima 98902	Franco, Hector
DSHS - Dist. Mgr Division of C			249-6015	1002 N 16th Av, Yakima 98902	Flores, Sylvia
Bilingual poll worker				1012 W Mead Av, Yakima 98902	Flores, Santiago
			837-8600		Farm Workers Opp. Prog
Servc. for seasonal & migratory f			865-5600		Farm Workers Clin. Yak. Val.
City of Wapato Mayor			877-6169	316 Southpark Dr #A, Wapato 98951	Farias, Jesse
VIVA			865-4055	P O Box 511, Toppenish 98948	Escobar, Ted
				402 S 17th Av, Yakima 98902	Diaz, Kevin
Toppenish City Council			865-5063	33 N D St, Toppenish 98948	Diaz, Fred
Sunnyside City Council			840-5065	1203 W Grandview Av, Sunnyside 98944	de la Cruz, Alex
Wapato School District Director			969-2828	3171 Lateral A Rd, Wapato 98951	Cordova, Rebecca
	576-8854		453-8888	312 N 5th Av, Yakima 98902	Contreras, Myrna
Columbia Legal Services	gal 575-4404	laura.contreras@columbialegal 575-4404	575-5593	6 S 2nd St #510, Yakima 98901	Contreras, M. Laura
Employment Opportunities			225-6100		Community Services Offices
			453-0303		City University
Zorro Radio	452-0541	bob@radiozorro.com	457-1000	P O Box 2888, Yakima 98907	Berry, Bob
RCDR		bazanirene@hotmail.com	307-3213	24 S 3rd Av, Yakima 98902	Bazan, Irene
			574-4967		Baca, Mr.
				803 S 30th Av, Yakima 98908	Arteaga, Mateo
Mabton City Council			840-0357	P O Bxo 416, Mabton 98935	Armendariz, Ernesto
Bilingual poll worker				128 Hawthorn Dr. Sunnyside 080//	Arevalo Paul
		33	800-880-4183		Americorps
		34	206-624-2184		American Civil Liberties Union
			966-6558		American Assc. for Ret. Peo.
Mabton Police Chief		(,	Almeida, Raul
LaMaquina Musical Radio Station	786-1181	kzkr@bentonrea.com	786-4532	152101 W County Rte 12, Prosser 99350	Allec, Frank
				4703 W Prasch Av, Yakima 98908	Aguilera-Flemming, Terri
Owner, Petunia Markets			574-1500		Aguilera, Polo
		()	,		Aguilar, Juan
836-5591 Sunnvside City Council	836-5591	baguilar8@earthlink.net	837-7769	529 Dayton Dr. Sunnyside 98944	Aguilar, Bengie
Notes	Fax	E-mail	Phone	Address	Name

Ortega, Bertha Ozuna, Robert Palacios, David Palacios, Jesse People for People Perez, Patrick Perez, Velma Perry Technical Institute Planned Parenthood	Morales, Michael Morales, Robert Moreno, Lydia B. Nicacio, Bill Olivares, Carlos Oppo. Industr. Center Orbea, Eduardo Orosco, Juan	Herrandez, Mary Herrera, Velva L. Jiminez, Clara Lara, Victor Larez, Thomas A. Lopez, Anita Macias, Gonzalo Mendoza, Gloria Migrant Alternative School Molina, Virginia Morales, Jose Morales, Medardo Morales, Medardo	Gonzalez, Alfredo Jr. Gonzalez, Tony Guerra, Ernie Gutierrez, Luz Bazan Gutierrez, Ninfa R. Guzman, Manuel Guzman, Tony Heritage College
3240 Fort Rd, Toppenish 98948 3240 Fort Rd, Toppenish 98948 1260 Appleway Rd, Grandview 98930 128 N 2nd St #232, Yakima 98901 1118 Queen Av, Yakima 98902 1407 S 20th Av, Yakima 98902	Yakima City Hall 2105 Hill Dr, Grandview 98930 310 Elm St, Grandview 98930 705 S Tieton Ave, Wapato 98951 116 Park Av, Yakima 98902 P O Box 9668, Yakima 98909	P O Box 771, Mabton 98935 1122 Satus Av, Toppenish 98948 216 S 32nd Av, Yakima 98902 131 Washington St, Harrah 98933 25 N I St, Toppenish 98948 109 W 2nd St, Grandview 98930 P O Box 265, Mabton 98935 1231 Donald Rd, Wapato 98951 3907 Summitview Av, Ste, Yakima 98902 7420 Fort Rd, Wapato 98951	P O Box 1225, Granger 98932 600 Hedrick Pl, Grandview 98930 P O Box 463, Granger 98932 1424 S 31st Av, Yakima 98902 1550 Bus Rd, Mabton 98935 102 N Central Av, Wapato 98951
867-7081 574-1500 248-6726 453-6697 457-4662 453-0374 248-3628	882-2961 882-1516 877-4698 248-6751 577-7730	894-3435 865-4222 848-2047 839-4903 865-5033 882-2523 575-3492 894-4104 307-0203	854-6276 882-3877 854-2727 952-7860 307-1247 894-5204 877-2986
jesse.palacios@co.yakima.wa.us	eorbea@elsoldeyakima.com <u>577-7768</u>	anital@bentonrea.com	453-5165
Heritage College Heritage College Heritage College Grandview Police Dept. County Commissioner Adult employment services Hispanic Chamber of Commerce		Project Change/Planned Parenth Mabton City Council Toppenish City Council Attorney Harrah Town Council United Farm Workers of America Toppenish School District Directo GMC Training Institute Mabton City Council	Granger Town Council Grandview School District Director Granger Town Council 165 Rural Community Development R VIVA Mabton School District Director Wapato City Council

Sanchez, Larry Sandoval, Tony Sandoval, Tony Santillanes, Alex Soria, Ben Trejo, Viviana Vega, Griselda Velasco, Efrain Villanueva, Janie Villanueva, Jose Villanueva, Tomas Villarreal, Lilia O. Volunt. & Car. Ctr of Yak. Cty WorkSource Yakima ICNE Outreach Prog. Yakima Interfaith Coalition Yakima Tribal Council Yakima Valley Comm. College Yakima Valley Farm Wor. Cl. Ybarra, Natalie Ybarra, Vickie Zavala, Vera C.	Rodgriguez, Sonja Ramon, Amelia Retired Senio Volunt. Prog. Romero, Julio Sagrero, Rafael
P O Box 10301, Yakima 98909 (personal) 1407 W Chestnut Av, Yakima 98902 104 N 4th Av, Yakima 98902 708 Pine St, Mabton 98935 6 S 2nd St, #510, Yakima 98901 503 S 3rd St, Yakima 98901 Catholic Diocese, 5301 Tieton Dr, 98908 140 Youngstown Rd, Toppenish 98948 720 Second Av, Granger 98932 221 E St, Granger 98932 708 S 17th Av, Yakima 98902 P O Box 614, Mabton 98935	P O Box 800, Granger 98932 1115 W Lincoln Av, #119, Yakima 98902 P O Box 193, Mabton 98935
452-3561 952-4760 573-7001 894-4671 575-5593 453-3064 854-2511 457-6850 574-0105 575-2130 457-5058 865-5121 575-2427 865-3054 854-1801 249-1268 894-4273	453-8888 575-4224 248-5270 894-5245
tonysand@bentonrea.com bsoria@aol.com 573-7181 griselda.vega@columbialegal.c 575-4404 evelasco@seiu775.org vickiey@yvfwc.org	Volunteer placement info@cccsyakima.org 248-
Central WA Workforce Training Hispanavision - 452-8817 FAX: Barrios Unidos 573-7181 Yakima School Dist. Superintende Mabton School District Director Columbia Legal Services Local 775 - SEiU, Organizer Catholic Diocese - Holy Family Community Member DSHS Granger Town Council Career Center seeks to promote v Employment and training services Employment training, education International Students Program Education and supportive service: Granger Town Council Yakima Valley Farmworkers Clinic Mabton City Council	KDNA 248-5276 SW Voter Project/Consumer Crec Mabton School District Director